

SUMMARY OF TESTIMONY ON PROPOSALS
RELATING TO INDEPENDENT
CONTRACTORS

BEFORE THE
SUBCOMMITTEE ON SELECT REVENUE MEASURES
OF THE
COMMITTEE ON WAYS AND MEANS
ON JULY 16 AND 17, 1979

PREPARED FOR THE USE OF THE
COMMITTEE ON WAYS AND MEANS
BY THE STAFF OF THE
JOINT COMMITTEE ON TAXATION



SEPTEMBER, 18, 1979

THE LAMBERTS

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INTRODUCTION

This pamphlet summarizes the testimony of witnesses at the public hearings on proposals relating to independent contractors held on July 16 and 17, 1979, by the Subcommittee on Select Revenue Measures of the Committee on Ways and Means and written statements submitted for the record of the hearings. Administration witnesses testified before the subcommittee at a public hearing on June 20, 1979. At the subsequent hearings, public witnesses commented on H.R. 3245, which would provide a "safe-harbor" test for the classification of workers as independent contractors for Federal employment tax purposes and on the Treasury Department proposals for changes in the administration of the employment tax laws.

The first part of the pamphlet contains descriptions of the provisions of H.R. 3245 and the Administration proposals. The second part is the summary of testimony and statements by witnesses and writers who stated their positions on H.R. 3245; on the Administration proposals on withholding, reporting and penalties; on the IRS compliance study; or on related legislative subjects.

I. SUMMARY OF H.R. 3245 AND ADMINISTRATION PROPOSAL

A. H.R. 3245 (Mr. Gephardt)

H.R. 3245, the "Independent Contractor Tax Status Clarification Act of 1979," introduced by Mr. Gephardt, would create a "safe harbor" by establishing five requirements, which, if met, would result in an individual not being classified as an employee. To be an independent contractor under H.R. 3245:

(1) the individual must control the aggregate number of hours actually worked and substantially all of the scheduling of the hours worked;

(2) the individual must not maintain a principal place of business, or, if he does so, his principal place of business must not be provided by the person for whom such service is performed, or, if it is so provided, the individual must pay such person rent for it. For purposes of this requirement, the individual would be deemed not to have a principal place of business if he does not perform substantially all the service at a single fixed location;

(3) the individual either must have a substantial investment in assets used in connection with the performance of the service, or must risk income fluctuations because his remuneration with respect to such service is directly related to sales or other output rather than to the number of hours actually worked;

(4) the individual must perform service pursuant to a written contract between the individual and the person for whom service is per-

formed which was entered into before performance of the service, which provides that the individual will not be treated as an employee for purposes of employment taxes, and which provides the individual with written notice of his responsibility for payment of self-employment and income taxes; and

(5) the person for whom service is performed must file required information returns.

The bill contains no-inference rule which provides that if the five requirements are not met with respect to any service, nothing in the bill shall be construed to infer that the service is performed either by an employee or for an employer, and that the determination of employment status issues is to be made as if the bill had not been enacted. Thus, if an individual failed to meet any one of the requirements, the individual's classification would be governed by the present common law rules.

B. Administration Proposal

The Treasury Department proposal relating to the tax treatment of independent contractors would require withholding on independent contractors at a flat rate, would strengthen the information reporting requirements, and would reduce from 100 percent to 10 percent the penalty imposed on an employer for failure to withhold. In addition, the Treasury has suggested several alternatives which may be considered now or in the future.¹

1. Withholding on independent contractors

The Treasury Department has proposed that taxes be withheld at a flat rate of 10 percent from payments made in the course of a payor's trade or business for services provided by certain independent contractors. There would be two exceptions to this general withholding requirement.

The first exception would provide that no withholding would be required on payments to an individual who normally provides similar services to five or more payors during each calendar year. A worker would be entitled to rely upon this exception if (1) he or she performed similar services for five or more payors during the preceding calendar year, or (2) objective circumstances indicate that the worker reasonably can expect to perform services for five or more payors during the year in question.

The second exception is designed to prevent overwithholding. A worker who expected to owe less tax than the amount to be withheld (taking into account any taxes being withheld by other payors) would be permitted to elect out of the proposed withholding system. This would be accomplished by a worker checking a box and signing a form that would provide the payor with the worker's names, address, and social security number, which the payor is required to obtain for information reporting purposes under present law. If it were determined subsequently that the worker should have been withheld upon as an independent contractor, a payor who obtained this information would not be subject to any penalties for failure to withhold.

¹ These proposals and possible alternatives were made by the Treasury Department in a statement by Donald C. Lubick, Assistant Secretary of the Treasury (Tax Policy), in testimony before the Ways and Means Subcommittee on Select Revenue Measures on June 20, 1979.

Under the Treasury proposal, flat-rate withholding would apply also to salespersons whose compensation for services is based upon the difference between the price to them of merchandise sold and its resale price. Compensation, for this purpose, would be measured by the difference between the "suggested" (or estimated) selling price to retail customers and the purchase price paid by the salespersons. Regulations would be issued requiring payors to make appropriate arrangements for withholding the tax.

2. Strengthen information reporting requirements

The Treasury Department has proposed three measures to strengthen the information reporting requirements of present law.

The first measure would increase the penalties for failure to file information returns to 5 percent of payments not reported, with a minimum penalty of \$50. Under present law, the penalty for failure to file information returns is \$1.00 per occurrence, with a maximum penalty of \$1,000 per calendar year.

The second proposal would require payors to provide copies of information returns to workers. Penalties for failure to provide these copies would be the same as for failure to file the information returns.

Finally, information reporting would be extended to compensation for services performed by salespersons. The amount to be reported would be the difference between the cost of goods sold and the suggested or estimated retail selling price of goods sold.

3. 10-percent penalty tax

Under present law, if workers who were treated as independent contractors are reclassified as employees, payors are liable for a 100-percent penalty tax, that is, they are liable for all income and FICA taxes which should have been withheld from the workers in addition to their own liability for FICA and FUTA taxes.

Under the Treasury proposal, a penalty tax of 10 percent of the amount of wages not withheld upon would replace the 100-percent penalty tax. Payors whose workers are reclassified as employees would remain liable for the employer's half of FICA taxes and FUTA taxes. The worker would be liable for the employee's half of FICA taxes.

The 10-percent penalty tax would be abated if it were not unreasonable for the payor to treat the worker as an independent contractor and the payor also withheld a flat rate of 10 percent from the worker's compensation (or was excused from withholding because the worker elected out of the system). However, the payor would still be liable for the employer's half of FICA taxes and FUTA taxes.

4. Alternative suggestions

The Treasury Department has suggested that, instead of a simplified flat—rate system for withholding on independent contractors, graduated—rate withholding could be required on all workers paid other than on a wage or salary basis regardless of employment status. Exceptions to graduated withholding would be provided for cases where the gross payments received by a worker would not approximate his or her net income and it is likely that the worker would provide services to multiple payors.

In addition, the Treasury has pointed out that it would be possible to reduce the tax advantages inherent in independent contractor status by equalizing the total social security tax burden for employees and independent contractors, while allowing the latter an income tax deduction for approximately one-half of such taxes. The Treasury believes that eliminating the disparity between FICA and SECA tax rates should be given consideration in the future as part of the broader issue of social security financing.

Finally, the Treasury has suggested that, if absolute certainty is considered paramount, objective standards to supplement the common law and assist payors in making determinations of withholding could be provided as part of a flat-rate withholding system. However, it urges that any such criteria provide certainty by erring only on the side of classifying workers as subject to graduated-rate withholding.

II. SUMMARY OF TESTIMONY

A. Comments on H.R. 3245

Honorable Richard A. Gephardt, Member of Congress (Missouri)

Feels that H.R. 3245 contains the best tests that can be devised to determine who is an independent contractor. Suggests that the bill might be amended to prevent employees from rearranging their affairs solely in order to qualify as independent contractors, if the committee believes that might be a problem.

Honorable Herbert E. Harris II, Member of Congress (Virginia)

Supports H.R. 3245.

Honorable Richard H. Ichord, Member of Congress (Missouri)

Supports H.R. 3245.

Honorable Leon E. Panetta, Member of Congress (California)

Endorses H.R. 3245. Believes that it would simplify the tax law, recognize the reality of certain business relationships, and provide a very large group of taxpayers with an opportunity to conduct their businesses and pay taxes in a well-defined fair manner.

Donald C. Alexander, Esq., Washington, D.C., Former Commissioner of Internal Revenue

Criticizes standards in H.R. 3245 as subject to manipulation.

National Association of Tax Administrators, Washington, D.C., Leon Rothenberg, Executive Secretary

Urges Congress to defer action on H.R. 3245 because bill would create Federal employment tax status rules which differ from most State rules, which were modeled after present Federal common law standards. This difference would cause administrative problems for State tax administrators and for employers. Believes further study is necessary.

Interstate Conference of Employment Security Agencies, Inc. (ICESA), Washington, D.C., Glenn W. Nichols, President

Believes many employees will lose rights to benefits and protections under the Fair Labor Relations Act and the State unemployment insurance laws, if H.R. 3245 is enacted, because the bill's standards differ

significantly from the common-law tests presently governing employment classifications under most Federal and State programs.

As alternative to H.R. 3245, urges either—

(1) narrowly drafted, specific exclusions from FUTA; for example, insurance agents paid solely by commission; or

(2) making safe-harbor tests in H.R. 3245 inapplicable to any situation considered an employment relationship under either National Labor Relations Act or the unemployment insurance laws of the State where the service is performed.

Division of Employment Security, Department of Labor and Industrial Relations, State of Missouri, Jefferson City, Missouri, J. E. Dietrich, Director

Believes safe-harbor tests in H.R. 3245 will cause difficulties for State unemployment insurance administrators, businesses, and individuals because the bill's standards for determining employment status differ considerably from the standards of those States which have made case-by-case determinations based on control-type tests and which have followed prior administrative and judicial rulings in status cases.

Anticipates that H.R. 3245 will create hardships for businesses required to treat workers one way for Federal law and another way for State law. Believes bill will result in many people losing unemployment insurance coverage.

Recommends specific exclusions as preferable to new general tests.

Martin R. Glick, Director, Employment Development Department, California Health and Welfare Agency, Sacramento, California

Opposes H.R. 3245. If legislation is necessary, suggests drawing only narrow and specific exclusions from employment tax responsibilities.

Chamber of Commerce of the United States, Christine L. Vaughn, Director, Tax Policy Center, and Charles W. Wheeler, Tax Attorney, Tax Policy Center

Supports H.R. 3245.

National Association of Manufacturers, Thomas J. McHugh, Chairman, Corporate Income Tax and Capital Formation Subcommittee

Supports H.R. 3245.

Tax Executives Institute, William J. Fait, President (Pullman, Inc.)

Generally supports H.R. 3245 but believes that it should be amended to provide that the longevity of a relationship would be an alternative to the investment and risk of income fluctuation test because some independent contractor relationships are of a short, one-time duration and there might not be any substantial investment or risk of income fluctuation. Also believes that the bill should be amended to clarify that the independent contractor, rather than the company, is to be responsible for the timely and proper payment of all taxes.

In addition, recommends that the following two provisions be added to H.R. 3245:

(1) Tax Court jurisdiction over employment tax disputes; and

(2) a requirement that the Government offset already paid self-employment taxes against any alleged liability of the corporate taxpayer.

Machinery and Allied Products Institute, Charles Stewart, President
Supports H.R. 3245.

Small Business Legislative Council, James J. Gibbons

Supports H.R. 3245 because it provides a safe harbor test while retaining the common law test.

AFL-CIO, Stephen Koplan, Legislative Representative

Suggests that individuals may be able to manipulate the factors listed in H.R. 3245, that the complexity of standards in H.R. 3245 may lead to substantial litigation, and that the following criteria should be met by an individual in order to be an independent contractor:

- (1) a substantial investment in assets (other than transportation vehicles used in a non-transportation business);
- (2) employees of his or her own who provide a substantial portion of the services for which compensation is received;
- (3) substantial, continuing expenses and concurrently performed services for more than one payor; and
- (4) a separate place of business (other than a home office).

National Association of Realtors, David D. Roberts, Chairman, Legislative Committee, Gil Thurm, Vice President and Legislative Counsel, and Al Abrahms, Senior Vice President

Support H.R. 3245.

Baird & Warner, Inc., Chicago, Ill., John W. Baird, President

Believes that the standards in H.R. 3245 are vague and would not help clarify status determinations.

Maintains that H.R. 3245 would put real estate firms treating salesmen as employees at a substantial competitive disadvantage economically or would influence firms to switch salesmen to independent contractor status, causing higher individual social security tax liabilities for salesmen but overall revenue loss for Government.

Joseph C. Holbrook, Mount Vernon (Va.) Realty, Inc.

Supports H.R. 3245; believes it will provide certainty as to employment status for members of the real estate industry.

American Council of Life Insurance, Thomas Fee

Supports H.R. 3245.

American Insurance Association, Brenda R. Viehe-Naess, Tax Counsel

Supports H.R. 3245.

National Association of Life Underwriters, H. James Douds, Vice President and General Counsel

Supports H.R. 3245, but wants to insure that employers don't take advantage of the safe harbor in order to avoid paying to their workers the unemployment benefits to which they would otherwise be entitled.

National Association of Independent Insurers, Charles W. Davis, John W. Head, F. W. Hirt, Gustav J. Lehr and Willis Crain

Supports H.R. 3245 as the most sensible, workable and comprehensive solution to the employee-independent contractor classification problem. Urges Congress to extend the relief provisions of section 530 of the Revenue Act of 1978 if the bill is not enacted this year.

Colonial Life and Accident Insurance Company

Supports H.R. 3245.

*MFA Insurance Companies of Columbia, Missouri, Gustav J. Lehr,
Executive Vice President*

Supports H.R. 3245.

*Investors Heritage Life Insurance Company, Harry Lee Waterfield,
Chairman of the Board and Chief Executive Officer*

Supports H.R. 3245.

*American Farm Bureau Federation, Vernie R. Glasson, Director, Na-
tional Affairs*

Urges enactment of H.R. 3245. Believes that it will accomplish the objective of preserving the status of workers who have historically been treated as independent contractors. Maintains that approaches which would change the classification of individuals who are now classified as independent contractors could have serious consequences on the operations of Farm Bureau—affiliated companies and thus work to the detriment of the interests of farmers and ranchers.

Florida Farm Bureau Federation, Walter J. Kauntz, President

Supports H.R. 3245.

American Family Assurance Company, Daniel B. Rosenbaum, Counsel

Supports H.R. 3245. Believes that it provides a clear and workable test to classify workers for employment tax purposes.

*Direct Selling Association, James E. Preston, Vice Chairman of the
Board (Executive Vice President, Avon Products)*

Supports H.R. 3245. Claims that it would resolve the problem of which individuals can qualify for independent contractor status in a reasonable manner by providing a set of safe harbor rules for attaining such status while preserving the flexibility provided by the common law.

*Robert R. Nathan, Economist (on behalf of the Direct Selling Asso-
ciation)*

Supports H.R. 3245 because it would increase certainty for taxpayers.

*Bureau of Salesmen's National Associations, Charles W. Schoeneman,
Washington Counsel*

Believes that H.R. 3245, as introduced, would unintentionally aggravate the employment tax situation of traveling salesmen because the bill would take the elements which are the essential characteristics of every traveling, wholesale, commission salesman and use each characteristic as an adverse factor in terms of the employment tax definition of "employee." Points out that because of the nature of a traveling salesman's business, the salesman will not have "a principal place of business," will control the "aggregate number of hours" and "scheduling of hours worked," and will risk "income fluctuations" because his remuneration with respect to such service is directly related to sales or other output rather than to the "number of hours actually worked." Believes that any solution which puts the application of the law in the hands of the principal and out of the hands of the salesman-employee and the Government is neither workable nor acceptable.

*National Council of Salesmen's Organizations, Inc., Marvin Leffler,
Chairman of the Board*

Supports H.R. 3245.

*International Franchise Association and General Services, Inc., James
D. McCarthy, Chairman, Tax Subcommittee and Vice President,
Tax Services, General Services, Inc., Rockville, Md.*

Supports H.R. 3245 on the ground that it would make certain that a franchisee would be treated as an independent contractor. However, recommends that the control of hours worked test be clarified so that it applies to individual control of individual work and not to the hours of business operation. Further recommends that the bill be amended to provide that information returns need be filed only to report direct payments to independent contractors.

The Southland Corporation, Dallas, Texas, Stanley C. Simon

Supports H.R. 3245 because it would establish that 7-Eleven Store franchisees are not employees of Southland Corporation. However, suggests that the bill be modified to make it clear that the rent paid by a 7-Eleven Store franchisee as part of the 7-Eleven charge qualifies, even though the charge is not broken down into separate percentages for each item it covers.

*C. H. Stuart, Inc., Richard W. Goodman, Vice President, Govern-
mental and Consumer Affairs*

Supports H.R. 3245.

*American Pulpwood Association, K. S. Rolston, Executive Vice
President*

Supports H.R. 3245. Believes it will bring predictability and clarity to the employee-independent contractor problem without supplanting the traditional common law test.

Louisiana Forestry Association, Michael J. Lawton

Supports H.R. 3245.

Maine Forest Products Council, Roland Bennett

Supports H.R. 3245.

Oregon Log Truckers Association, Lynn Abraham, President

Supports H.R. 3245.

Texas Forestry Association, Thomas Fenley

Supports H.R. 3245.

*Vermont Timber Truckers and Producers Association, Robert Beau-
soleil, President, Mr. and Mrs. Reginald Dwyer, and Paul Daniels*

Supports H.R. 3245.

Virginia Forestry Association, Bobby Seid

Supports H.R. 3245.

*Associated General Contractors of America, Gilbert Turner (Presi-
dent, Boring & Tunneling Company of America, Houston, Texas)*

Generally supports H.R. 3245 but fears that its tests could result in the classification of certain construction contractors as employees. Suggests the following amendments to H.R. 3245:

(1) if the "safe harbor" standards are not met, it should be provided that an individual still could qualify for independent contractor status under a codified version of the common law test;

(2) bona-fide owner-operators of trucks or other equipment in construction and allied fields should be deemed to be independent contractors; and

(3) individuals who hold themselves out as independent contractors and who perform services for five or more payors should be deemed to be independent contractors.

Has no objection to anti-switch rule providing that workers treated as employees prior to enactment of H.R. 3245 can be reclassified by the payors as independent contractors after enactment only if the workers qualify as independent contractors under common law criteria.

National Association of Home Builders, Vondals Gravlee, President

Believes that with certain modifications the enactment of H.R. 3245 would constitute a major step toward elimination of needless tax audits and expense. Suggests the following modifications to H.R. 3245:

(1) an individual should be deemed to have a substantial investment in assets if he owns substantially all of the tools of his trade, without regard to the cost or value of the tools;

(2) in situations, such as construction, where work necessarily must be performed on a job site in sequence, an individual should be deemed to control the hours worked, notwithstanding the fact that time limits or date limits may be placed upon completion of a job; and

(3) an individual should be considered to maintain a principal place of business if he performs substantially all the services at a single, fixed location if that location changes from time-to-time as jobs are completed.

National Home Improvement Council, Eugene B. Squires, President

Endorses the safe harbor approach of H.R. 3245. Welcomes reaffirmation of the traditional common-law test.

American Bus Association, Arthur D. Lewis, President

Supports H.R. 3245 with clarification of the provision relating to control of hours worked.

Requests that the committee include language in its report emphasizing that an individual is deemed to have control over the scheduling of his hours even though the nature of his task requires that it be performed at a specific time.

American Trucking Associations, Inc., Duncan McRae, Jr. (Executive Vice President, Melton Truck Lines, Shreveport, La.), and Ed Delaney Esq., Wash., D.C.

Support generally the legislative proposals of H.R. 3245. Urge that any "safe harbor" test which may be adopted must take account of the operating practices of the trucking industry, particularly those imposed upon the industry by Federal and State laws and regulations.

American Movers Conference, G. Zan Golden

Supports H.R. 3245 with modifications. Recommends that the bill include a provision to grandfather as independent contractors those individuals traditionally accorded independent contractor status.

Urges that the control of hours test exclude governmentally mandated controls on hours. Also suggests substituting an either/or requirement for the present requirement that an individual control both the hours worked and substantially all of the scheduling.

Expresses concern that the application of the income fluctuation test may be limited to revenue producing activities and that the business concept of "volume" may be distorted by removing "the number of hours" worked from profit margin considerations.

International Taxicab Association, Richard Hunt, President

Supports H.R. 3245. Alternatively, supports H.R. 1582 which would prevent indefinitely any change in the present common-law test for determination of employment status.

Retail Floorcovering Institute, Alan D. Greenberg, President

Supports H.R. 3245.

National Oil Jobbers Council, Deane Stewart, Chairman, Legislative Committee

Finds the legislative approach of H.R. 3245 generally acceptable. However, recommends that (1) individuals be required to meet only four of the five criteria to come within the safe harbor test; (2) the Internal Revenue Code be amended to prohibit the Service from making retroactive employee determinations, except in cases involving fraud, where a business (a) obtains a written contract from individuals consistent with the written contract requirement of the bill and (b) files all information returns as now required by the Service; and (3) the term "rent" in the bill be clarified to include consideration included in the price of goods sold to the payor (e.g., service station rents included in dealer price of gasoline). Notes that governmental requirements could cause an individual not to meet the "control of hours" test (e.g., local requirements that gas stations remain open during certain hours, etc.).

American Petroleum Institute, Charles J. DiBona, President; Mid-Continent Oil and Gas Association; Rocky Mountain Oil and Gas Association; and The Western Oil and Gas Association

Supports H.R. 3245 with amendments. Favors substituting four-of-five for the five-of-five five-criteria requirement. Recommends that workers in buy/sell relationships be automatically considered independent contractors. Asks that any legislation prevent duplication of withholding for independent contractors who hire their own employees.

Suggests that the income fluctuation requirements be waived in the case of workers whose retention of service is limited.

American Council on Education, Sheldon Elliot Steinbach, General Counsel; National Association of Independent Colleges and Universities, Christine Y. Topping, General Counsel; American Association of State Colleges and Universities; Council for the Advancement of Small Colleges; and National Association of Schools and Colleges of the United Methodist Church

Favor H.R. 3245 because it is flexible and retains common law rules. However, urge amendment to bill's income test so that academic work

is considered output and payments for such work are not deemed to be based on hours.

Also, recommend that H.R. 3245 include language prohibiting IRS from automatically classifying individuals who are employees for one purpose, e.g., regular secretarial work, as employees for all purposes, including for example single or occasional services as musical artist, merely because of other connection with payor in an employment relationship.

Council of American Survey Research Organizations, Sanford L. Cooper, Chairman

Objects to H.R. 3245. Believes the bill provides a confusing two-step approach. Expresses concern that definitions of key terms of the safe harbor test are not included in the bill. Notes that the requirement that income fluctuation be directly related to sales or other output rather than to the number of hours actually worked would endanger the independent contractor status of interviewers for market research survey organizations.

American College of Emergency Physicians, George Podgorny, President

Supports H.R. 3245 with modifications. Recommends applying the safe-harbor rule if only four out of five tests are satisfied. Alternatively, suggests adding a sixth test requiring the individual to obtain a license from a professional or government agency, and then changing the requirement to five out of six tests.

Supports provision regarding control of hours worked as long as it applies to workers who periodically choose how many hours to work.

Urges clarifying provision concerning place of business in order to permit a physician's education and training to count as "investment." Suggests that in its report, the committee indicate that renumeration normally paid on a fee-per-hour basis would satisfy the income fluctuation test.

American Horse Council

Supports H.R. 3245.

Organization of Personal Care and Chore Services, Noel Grant, Community Organizer; Sara Davis, President; Mattie Price, Home aide, and Lois E. Bruckner, Counsel

Supports the legislative intent of H.R. 3245 but believes that the bill does not set clear standards for determining the employment status of individuals working under programs established under the Social Security Act, Title 42 U.S.C., section 1396. Urges amending the bill to (1) explicitly state that it applies to public sector workers, and (2) include a codification of the traditional common law test.

Policy Manual Co., Richard Philleo, President

Urges modifying the written contract requirement to allow a real estate broker's manual to qualify as a written contract.

Specialty, Advertising Association International, Dean C. Mathews, Chairman

Supports H.R. 3245.

Chromalloy-American Corp., Interco, Inc., Brown Group, Inc., May Department Stores Co., and Emerson Electric Co., St. Louis, Mo., W. R. Withrow, Assistant Treasurer and Chief Tax Officer, Interco, Inc., and Richard A. Paysor, Vice President—Taxes, Chromalloy-American Corp.

Supports the guidelines contained in H.R. 3245 on the ground that they would eliminate the problems currently facing the business community. Suggests two amendments to the bill:

(1) requirement that the IRS verify through its records, and allow as an offset against any asserted tax liability of the company, all employment taxes paid by the person who was alleged to be an independent contractor; and

(2) clarification that the independent contractor know that he, and not the company, is responsible for the timely and proper payment of all taxes.

American Newspaper Publishers Association, Jerry Freidheim, Executive Vice President and General Manager

Generally supports H.R. 3245, but suggests modifying the written contract requirement. Also, opposes the test on the filing of required returns.

Urges amending the written contract provision to permit written notices at a time contemporaneous with, rather than prior to, the time of payment.

Objects to the provision mandating the filing of information returns.

Manpower, Inc., Mitchell S. Fromstein, President and Chief Executive Officer

Urges the Congress to redefine employee status and independent contractor status in a manner that prohibits the IRS from asserting a withholding or employment tax liability with respect to relationships that cannot fairly be viewed as involving the performance of personal services by one party for another. Fears that legislation which simply clarifies employee relationships and defines an independent contractor will not provide adequate protection from unwise and unwarranted attempts by the IRS to impose employment and withholding tax requirements on relationships that are extraneous to the law being applied.

World Book—Childcraft International, Inc.

Supports H.R. 3245.

Munzenrieder Corporation, R. Michael Marston, CPA

Would support H.R. 3245 if the bill were expanded to include any independent business relationship in the safe-harbor test.

Martin A. Grusin, Esq.

Supports H.R. 3245, but suggests inclusion of a provision which would permit a payor, in the event of a dispute over a worker's status, to resolve the dispute by litigating the issue in the Tax Court.

Robert and Jan Fraumann, Diversified Incomes, Atlanta, Ga.

Support H.R. 3245.

Curtis Hawkins, Seattle Washington

Supports H.R. 3245. Suggests including an explicit statement of legislative intent in the bill.

Marlys Phipps, Ames, Iowa

Supports H.R. 3245 as resolving the long-standing employment status problem which independent truck operators have encountered with regard to lumpers (individuals who unload trucks at docks). Believes that if the "lumper" problem is not clarified, many independent truck operators will be forced out of business.

Charles L. and Jean Strehli, Austin, Texas

Support H.R. 3245.

B. COMMENTS ON ADMINISTRATION PROPOSAL

1. 10-percent withholding

Honorable Richard A. Gephardt, Member of Congress (Missouri)

Points out that under the flat rate withholding proposal an individual's status as an employee or an independent contractor would remain important, an incentive would remain for IRS to reclassify independent contractors as employees, and the common law control test, with all of its problems, would continue.

General Accounting Office, Richard L. Fogel, Associate Director, General Government Division

Believes that noncompliance among self-employed individuals is serious enough to warrant adoption of some type of withholding at the source on a percentage of payments to independent contractors. Is satisfied that Treasury noncompliance study results are accurate.¹

Donald C. Alexander, Esq., Washington, D.C., Former Commissioner of Internal Revenue

Supports flat rate withholding as a means of increasing compliance with tax laws without requiring additional expenditures for Internal Revenue Service administration.

Chamber of Commerce of the United States, Christine L. Vaughn, Director, Tax Policy Center, and Charles W. Wheeler, Tax Attorney, Tax Policy Center

Opposes withholding on independent contractors.

Small Business Legislative Council, James J. Gibbons

Opposes the Treasury's proposal for 10-percent withholding on independent contractors as being conceptually inconsistent with the philosophy and purpose of independent contractors. Is concerned that the Treasury's proposal encompasses traditional buy-sell, franchise and selective distribution arrangements from which there is nothing to

¹ In a letter dated September 6, 1979, to the Subcommittee Chairman, Mr. Fogel said that the GAO had reviewed the Treasury study data, which were weighted after the hearings Mr. Fogel said that he was satisfied now that the Treasury study results were accurate and that they indicate a serious compliance problem among the independent contractors who were studied.

withhold. Notes that increased compliance costs may result in some industries phasing out part-time low-earning individuals in order to offset increased costs.

National Association of Manufacturers, Thomas J. McHugh, Chairman, Corporate Income Tax and Capital Formation Subcommittee

Believes that compliance issues should be considered in hearings reserved for withholding matters.

Machinery and Allied Products Institute, Charles Stewart, President

Opposes the 10-percent withholding proposal.

Tax Executives Institute, William J. Fait, President (Pullman, Inc.)

Opposes flat rate withholding on the grounds that it would be administratively burdensome and would not increase the rate of compliance.

AFL-CIO, Stephen Koplan, Legislative Representative

Supports withholding at graduated rates on independent contractors.

National Association of Realtors, David D. Roberts, Chairman, Legislative Committee and Gil Thurm, Vice President and Legislative Counsel, and Al Abrahms, Senior Vice President

Oppose the Treasury proposal of withholding on independent contractors.

American Council of Life Insurance, Thomas Fee

Believes that withholding on independent contractors would not resolve the classification problem and would create administrative problems. States that noncompliance problems should be resolved by directing any withholding change to the groups involved.

American Insurance Association, Brenda R. Viehe-Naess, Tax Counsel

Opposes the 10-percent withholding proposal. If the proposal were adopted, favors modifying it by making exemption forms effective indefinitely and by not requiring annual filings.

Independent Insurance Agents of America, Susan B. Orsher, Counsel

Opposes the 10-percent withholding proposal. Also opposes exemption for five or more payors. Would support graduated-rate withholding if the exemptions proposed by Treasury were retained.

National Association of Life Underwriters, H. James Douds, Vice President and General Counsel

Does not support the 10-percent withholding proposal. If the proposal is enacted, urges exemption for life insurance salesmen.

National Association of Independent Insurers, Charles W. Davis, John W. Head, F. W. Hirt, Gustav J. Lehr and Willis Crain

Opposes the Treasury's proposal of withholding on certain self-employed persons as being impracticable and not a solution to the problem.

American Family Assurance Company, Daniel B. Rosenbaum, Counsel

Urges rejection of Treasury proposal for withholding on independent contractors. Believes that the proposal does not address the prin-

cial problem, *i.e.*, the need for more definite rules to determine an individual's employment status.

Colonial Life and Accident Insurance Company, Columbia, S.C.

Opposes the 10-percent withholding proposal.

MFA Insurance Companies of Columbia, Missouri, Gustav J. Lehr, Executive Vice President

Opposes withholding on independent contractors because it would not resolve the classification issue.

Direct Selling Association, James E. Preston, Vice Chairman of the Board (Executive Vice President, Avon Products)

Opposes flat rate withholding for the following reasons:

(1) withholding would place heavy administrative burdens on the direct selling industry, representing an estimated cost of \$70 million annually;

(2) the proposed withholding system is unworkable because of the multi-tiered distribution system in the direct selling industry;

(3) minimal incremental benefit would be yielded to the Government because most direct sellers already pay the proper amount of tax;

(4) withholding would shrink the size of the direct selling force, resulting in an overall revenue loss to the Government due to the loss of sales; and

(5) the consequences of withholding would be felt most heavily by low-income taxpayers.

Robert R. Nathan, Economist (on behalf of the Direct Selling Association)

Opposes flat rate withholding on the grounds that it does not fit an industry where the salespersons operate as entrepreneurs, especially in a buy and sell relationship, and that it could substantially shrink the size of the direct selling industry. Believes that withholding would not be appropriate in the direct selling industry because of variations in sellers' income and expenses. Estimates that the maximum revenue to be gained from the industry, withholding were implemented, would be \$30 million.

Northeast Educational Sales Federation, Weston, Maine, Frank E. Manchester, Executive Director

Opposes withholding on commissioned salespersons.

International Franchise Association and General Services, Inc., James D. McCarthy, Chairman, Tax Subcommittee and Vice President, Tax Services, General Services, Inc., Rockville, Md.

Believes that withholding would be unworkable and would be unfair with respect to franchise arrangements because of the lack of any "payments" by a franchisor to a franchisee.

Manpower, Inc., Mitchell S. Fromstein, President and Chief Executive Officer

Opposes flat rate withholding on payments made to independent contractors on the ground that this would relieve the IRS from establishing that individuals are employees prior to requiring withholding.

National Council of Salesmen's Organizations, Inc., Marvin Leffler, Chairman of the Board

Opposes 10-percent withholding on gross income. Indicates gross commission earnings of independent salesmen bear no relationship to ultimate taxable income.

Specialty Advertising Association International, Dean C. Mathews, Chairman

Opposes the 10-percent withholding proposal.

C. H. Stuart, Inc., Richard W. Goodman, Vice President, Governmental and Consumer Affairs

Opposes the Treasury's withholding proposal because it would (1) cause a substantial increase in the cost of doing business, and (2) no longer permit "commission type" sales organizations to operate as they presently do using many housewives, students, etc. as part-time salespersons.

John F. Carroll, Publishers Representative, North Tarrytown, N.Y.

Opposes the Treasury's proposal for withholding on independent contractors. Believes it will have a negative impact on independent commission salespersons of publishing companies.

Richard L. and Berrie DeHaven, Folsom, Pa.

Oppose Treasury proposal for withholding on independent contractors. Believe it will destroy the direct sales business by removing incentives for new people to enter a business where profits are generally nonexistent at first.

Robert and Jan Fraumann, Diversified Incomes, Atlanta, Ga.

Oppose the Treasury proposal for withholding on independent contractors because it would require withholding on every personally-sponsored distributor in their direct sales organization. Believe that implementation of the proposal would destroy such multi-level sales organizations.

Charles K. and Nancy Murray, Oreland, Pa.

Oppose the Treasury proposals relating to the tax treatment of independent contractors.

Marlys Phipps, Ames, Iowa

Opposes the Treasury withholding proposal.

Charles L. and Jean Strehli, Austin, Texas

Oppose, except for increased penalties for failure to file information returns, the Treasury's proposal relating to independent contractors. Believe that withholding will place an intolerable burden on distributors of their direct sales organization, most of whom pursue other full-time occupations. Believe that it is not possible to compute for withholding purposes compensation based on the difference between the cost of the goods to the salesperson and the sales price to the retail customers because, for example, the salesperson may use some of the merchandise personally or may give it away in promotions.

American Pulpwood Association, K. S. Rolston, Executive Vice President

Urges that Treasury proposal on withholding be rejected.

Vermont Timber Truckers and Producers Association, Robert Beau-soleil, President

Does not support the Treasury withholding proposal. Believes that it is unworkable and will not solve the problem of the employment status of a worker.

American Trucking Associations, Inc., Duncan McRae, Jr., Executive Vice President, Melton Truck Lines, Shreveport, La. and Ed Delaney, Esq., Washington, D.C.

Oppose the Treasury proposal for withholding on independent contractors.

American Movers Conference, G. Zan Golden

Opposes the 10-percent withholding proposal.

American Bus Association, Arthur D. Lewis, President

Suggests that if a withholding proposal is accepted, a "de minimus" exception be adopted.

National Oil Jobbers Council, Deane Stewart, Chairman, Legislative Committee

Urges rejection of the Treasury proposal for withholding on independent contractors.

American Petroleum Institute, Charles J. DiBona, President; Mid-Continent Oil & Gas Association; Rocky Mountain Oil and Gas Association; and the Western Oil and Gas Association

Opposes the 10-percent withholding proposal, including the proposed exemptions.

American Council on Education, Sheldon Elliot Steinbach, General Counsel; National Association of Independent Colleges and Universities, Christine Y. Topping, General Counsel; American Association of State Colleges and Universities; Council for the Advancement of Small Colleges; and National Association of Schools and Colleges of the United Methodist Church

State that any withholding requirement on independent contractors should include a minimum dollar threshold which would have to be met before any withholding would be required.

National Association of Home Builders, Vondal S. Gravlee, President

Opposes withholding on independent contractors because record-keeping requirements would be burdensome.

Associated General Contractors of America, Gilbert Turner (President, Boring & Tunneling Company of America, Houston, Texas)

Believes that burdensome Government regulations have resulted in a loss of productivity in the private sector and opposes income tax withholding on independent contractors because it would add to this burden.

National Home Improvement Council, Eugene B. Squires, President

Opposes the Treasury proposal for withholding on independent contractors as imposing an intolerable burden on small businesspersons. Also opposes any increase in the percentage of SECA taxes required to be paid by independent contractors.

Retail Floorcovering Institute, Alan D. Greenberg, President

Does not believe that adoption of the Treasury's proposal of withholding on independent contractors is warranted at the present time. Rather, recommends an amendment to the bill providing for a two-year study by the Treasury Department and the Joint Committee on Taxation to (1) review the compliance record of independent contractors and (2) recommend administrative changes that will improve compliance. Notes that if such a study indicates significant noncompliance by independent contractors, they would be willing to endorse the Treasury's withholding provision if proposed in conjunction with legislative provisions similar to these contained in H.R. 3245.

American College of Emergency Physicians, George Podgorny, President

Opposes the 10-percent withholding proposal.

Eder & Company, Bernard B. Eder, C.P.A.

Opposes the 10-percent withholding proposal.

Government Research and Development Corporation, Jim Jones

Opposes the 10-percent withholding proposal.

Chromalloy-American Corp., Interco, Inc., Brown Group, Inc., May Department Stores Co., and Emerson Electric Co., St. Louis, Mo., W. R. Withrow, Assistant Treasurer and Chief Tax Officer, Interco, Inc., and Richard A. Paysor, Vice President—Taxes, Chromalloy—American Corp.

Believes that a withholding requirement with respect to payments made to independent contractors would place an unnecessary and untenable burden on business.

World Book—Childcraft International, Inc.

Opposes the 10-percent withholding proposal.

Martin A. Grusin, Esq.

Opposes the Treasury proposal for withholding. States that the 10-percent required to be withheld is sometimes more than the worker's profit. Maintains that the proposal is inflationary; asserts that small independent contractors will raise their prices by 10 percent to cover the amount withheld. Believes that the exception to withholding for persons who work for five or more payors is not practicable because often there are not five or more payors who need a particular individual's services or for whom an individual will work.

Ronald L. Sheiman, Esq., Bridgeport, Conn.

Opposes the Treasury proposal for withholding on independent contractors. Recommends that the interim procedures included in the Tax Reform Act of 1978 be made permanent, either with or without modification.

2. Information reporting

Honorable Richard A. Gephardt, Member of Congress (Missouri)

Indicates that an amendment requiring payors to provide payees with copies of information returns would be acceptable.

General Accounting Office, Richard L. Fogel, Associate Director, General Government Division

Believes it appropriate to change the way in which the Government attempts to insure that independent contractors report their income and generally considers the Administration's proposals on information reporting to be reasonable. Also, states that IRS document-matching efforts should be strengthened.

American Council of Life Insurance, Thomas Fee

Supports increased information reporting.

American Family Assurance Company, Daniel B. Rosenbaum, Counsel

Recommends that the Congress consider strengthened and expanded information reporting.

Supports the Treasury's position on (1) increasing the penalties for failure to file information returns and (2) requiring payors to provide copies of information returns to the respective payees.

Proposes, additionally, that (1) payees who receive the returns be required to attach a copy of the return to their income tax returns and (2) information returns be provided in all cases without regard to the aggregate amount of payments made to an individual during the calendar year.

Direct Selling Association, James E. Preston, Vice Chairman of the Board (Executive Vice President, Avon Products)

Believes that concerns regarding taxpayers noncompliance should be directed at improved information reporting procedures, because improved reporting could improve compliance to the same extent as withholding without causing the disruptions and costs to the industry which withholding would produce.

Robert R. Nathan, Economist (on behalf of the Direct Selling Association)

Suggests that an alternative approach to improving compliance would be to extend and strengthen the existing information reporting system (by requiring that the payor send a copy of the Form 1099 to the payee, increasing the penalties for payors who fail to file 1099's, and encouraging the IRS to utilize more effectively the information reporting system), supplemented by simpler tax return forms and intensified educational effort. Believes that strengthened information reporting would improve compliance at a much lower cost than withholding. Suggests that, along with the strengthening of information reporting, the IRS be encouraged to examine periodically the extent to which tax compliance has improved among taxpayers.

American Trucking Associations, Inc., Duncan McRae, Jr. (Executive Vice President, Melton Truck Lines, Shreveport, La.) and Ed Delaney, Esq., Washington, D.C.

Support the Treasury proposals for strengthened information reporting requirements.

Chromalloy-American Corp., Interco., Inc., Brown Group, Inc., May Department Stores Co., and Emerson Electric Co., St. Louis, Mo., W. R. Withrow, Assistant Treasurer and Chief Tax Officer, Interco., Inc., and Richard A. Paysor, Vice President—Taxes, Chromalloy-American Corp.

Believe that increased information reporting would eliminate any need for withholding.

American Newspaper Publishers Association, Jerry Freidheim, Executive Vice President and General Manager

Objects to the provision mandating the filing of information returns.

World Book-Childcraft International, Inc.

Supports the proposal requiring employers to furnish copies of Form 1099 to their independent contractors.

Retail Floorcovering Institute, Alan D. Greenberg, President

Endorses the Treasury proposal concerning increased penalties for failure to file information returns.

Charles L. and Jean Strehli, Austin, Texas

Opposes, except for increased penalties for failure to file information returns, the Treasury proposals relating to independent contractors.

William H. Lundquist, C.P.A., Jenkintown, Pa.

Proposes denying Federal income tax deductions for payments to independent contractors if the payor does not file an information return with the IRS with respect to such payments.

3. Penalty tax

Tax Executives Institute, William J. Fait, President (Pullman, Inc.)

Believes that the Administration proposal for a penalty tax is meaningless because abatement of the penalty would be based upon whether or not it was "reasonable for the payor to conclude that a worker was an independent contractor."

American Family Assurance Company, Daniel B. Rosenbaum, Counsel

Supports the Administration proposal to substitute a 10-percent tax penalty for the employer's liability for withholding, but believes that the penalty should be equal to 10 percent of the taxes that should have been withheld rather than 10 percent of the amount of wages.

American Council of Life Insurance, Thomas Fee

Does not object to increased penalties.

Direct Selling Association, James E. Preston, Vice Chairman of the Board (Executive Vice President, Avon Products)

Generally supports the proposal to reduce from 100 percent to 10 percent the penalty imposed on an employer for failure to withhold. However, does not believe that this proposal should be conditioned on a withholding requirement and believes that the penalty should be based upon the amount of tax which the IRS asserts should have been withheld (rather than the amount of wages not withheld upon).

Chromalloy—American Corp., Interco, Inc., Brown Group, Inc., May Department Stores Co., and Emerson Electric Co., St. Louis, Mo., W. R. Withrow, Assistant Treasurer and Chief Tax Officer, Interco, Inc., and Richard A. Paysor, Vice President—Taxes, Chromalloy-American Corp.

Opposes the penalty tax proposal on the ground that Treasury would reap a windfall.

C. COMMENTS ON IRS COMPLIANCE STUDY

Honorable Richard A. Gephardt, Member of Congress (Missouri)

Believes that the Treasury compliance study is not a "perfect" study because the groups to which the study was directed may not have been representative groups and because there was not proper weighting within the selected groups.

General Accounting Office, Richard L. Fogel, Associate Director, General Government Division

After reviewing the process used by Treasury to weight study data (subsequent to hearings), is satisfied that the Treasury study results are accurate and indicate a serious compliance problem among independent contractors studied by Treasury.¹

Chamber of Commerce of the United States, Christine L. Vaughn, Director, Tax Policy Center, and Charles W. Wheeler, Tax Attorney

Maintains that the Administration has shown insufficient evidence of noncompliance by independent contractors.

Tax Executives Institute, William J. Fait, President (Pullman, Inc.)

Believes that the results of Treasury's compliance study are extremely distorted. Suggests that to be meaningful a compliance study would have to show the difference between adjusted gross income reported and adjusted gross income not reported, for a total of adjusted gross income subject to taxation.

AFL-CIO, Stephen Koplan, Legislative Representative

Supports increased efforts to reduce noncompliance.

National Association of Realtors, David D. Roberts, Chairman, Legislative Committee and Gil Thurm, Vice President and Legislative Counsel, and Al Abrahms, Senior Vice President

Believe that the IRS Employee/Independent Contractor Compliance Study which formed the basis for Treasury's proposal is deficient because the universe of independent contractors was not accurately defined, the sample size was too small, and the sample was not randomly selected.

Direct Selling Association, James E. Preston, Vice Chairman of the Board (Executive Vice President, Avon Products)

Believes that the Treasury compliance study does not support the need for withholding on direct sellers because the sample used in drawing compliance figures for direct sellers is not representative of the industry.

¹ Letter from Mr. Fogel to Subcommittee Chairman, September 6, 1979.

Robert R. Nathan, Economist (on behalf of the Direct Selling Association)

Believes that the Treasury compliance study should not be the basis for introducing a major tax change for the following reasons:

- (1) the study is not yet complete;
- (2) inadequate information has been provided by the Treasury concerning the methodology, definitions, concepts, and tabulation procedures employed to assess the reliability and usefulness of the study's results;
- (3) the sample of individuals audited is not representative of independent contractors;
- (4) the study fails to estimate the most relevant tax compliance ratio (that is, taxes paid to total tax liability);
- (5) information was not obtained from individuals audited as to whether they received Forms 1099 from their payors; and
- (6) conclusion cannot be reached with respect to the tax compliance of direct salespersons.

International Franchise Association and General Services, Inc., James D. McCarthy, Chairman, Tax Subcommittee and Vice President, Tax Services, General Services, Inc., Rockville, Md.

Believes that the results of the Treasury compliance study are misleading and present an inaccurate picture of compliance by franchisees for the following reasons:

- (1) the sample from which the results were drawn has an inherent bias because the sample was drawn from a list of payments which the IRS had proposed to reclassify from payments to independent contractors to payments to employees;
- (2) "franchise operations" figures were compiled from a very low number of returns;
- (3) there is no working definition of what constitutes a "franchise operation"; and
- (4) there is no indication as to what part of the franchise operation the compliance figures apply.

American Pulpwood Association, K. S. Rolston, Executive Vice President

Expresses serious reservation concerning the validity of the findings of the IRS Employer/Independent Contractor Study.

D. OTHER COMMENTS

Honorable J. J. Pickle, Member of Congress (Texas)

Urges that the test for determining employment status be drafted as a broad, general rule, with only necessary exceptions allowed, and with a view to equity so that workers, whether they are employees or independent contractors, are treated consistently when they perform the same services.

Supports retention of common law for the majority of cases where it has been clearly applied.

Tax Executives Institute, William J. Fait, President (Pullman, Inc.)

Recommends that the following two provisions be added to H.R. 3245:

- (1) Tax Court jurisdiction over employment tax disputes; and
- (2) a requirement that the Government offset already paid self-employment taxes against any alleged liability of the corporate taxpayer.

National Association of Independent Insurers, Charles W. Davis, John W. Head, F. W. Hirt, Gustav J. Lehr and Willis Crain

Urges the Congress to extend the relief provisions of section 530 of the Revenue Act of 1978 if H.R. 3245 is not enacted this year.

Bureau of Salesmen's National Associations, Charles W. Schoeneman, Washington Counsel

Recommends a statutory provision to provide that traveling, whole-sale, commission salesmen generally are to be treated as employees for purposes of income tax withholding, FICA, and FUTA, notwithstanding any other statutory provisions. Further recommends that traveling salesmen be treated as independent contractors only if they have no substantial investment in facilities used in connection with the performance of services (other than in facilities for transportation), or if the services are in the nature of a single transaction that is not part of a continuing relationship with the principal for whom the services are performed. Stresses that whatever changes are made, to the extent possible, all statutes pertaining to employment taxes should be made uniform in their application to traveling salesmen.

Van Brunt & Son, Inc., Old Bridge, N.J., Fred C. Hermann, President

Opposes proposals which would change teamsters from employees to independent contractors because this would inflict revenue losses on Social Security Trust Funds, among other reasons.

Chromalloy—American Corp., Interco, Inc., Brown Group, Inc., May Department Stores Co., and Emerson Electric Co., St. Louis, Mo., W. R. Withrow, Assistant Treasurer and Chief Tax Officer, Interco, Inc., and Richard A. Paysor, Vice President—Taxes, Chromalloy—American Corp.

Suggest two amendments to H.R. 3245:

- (1) requirement that the IRS verify through its records, and allow as an offset against any asserted tax liability of the company, all employment taxes paid by the person who was alleged to be an independent contractor; and
- (2) clarification that the independent contractor know that he, and not the company, is responsible for the timely and proper payment of all taxes.

American Council on Education, Sheldon Elliot Steinbach, General Counsel; National Association of Independent Colleges and Universities, Christine Y. Topping, General Counsel; American Association of State Colleges and Universities; Council for the Advancement of Small Colleges; and National Association of Schools and Colleges of the United Methodist Church

Recommend granting Tax Court jurisdiction in employment tax status cases.

The Soundshop, Nashville Talent Payments, Inc., and S & D Enterprises, Nashville, Tenn., Craig E. Deitschmann

Believes that singers, musicians, announcers and other performers in commercial music and production industries are self-employed persons. Because their employment status is constantly challenged by the Internal Revenue Service, requests that Congress regard these persons as independent, self-employed contractors.

Martin A. Grusin, Esq.

Suggests legislation to permit a payor, in the event of a dispute over a worker's status, to resolve the dispute by litigating the issue in the Tax Court.

David R. Frazer, Yale F. Goldberg and Bob Slator, Phoenix, Ariz.

Propose clarifying 20 common-law factors with 10 tests for classifying workers as employees or independent contractors.

